

Final Rule

LSA Document #14-442(F)

DIGEST

Adds [844 IAC 5-8](#) to establish standards and procedures for the medical licensing board to implement a telehealth services pilot program utilizing telecommunications and information technology to provide access to health assessment, diagnosis, intervention, consultation, treatment, supervision, and information across a distance. Effective 30 days after filing with the Publisher.

[844 IAC 5-8](#)

SECTION 1. [844 IAC 5-8](#) IS ADDED TO READ AS FOLLOWS:

Rule 8. Telehealth Services Pilot Program

[844 IAC 5-8-1](#) Scope

Authority: [IC 25-22.5-2-7](#); [IC 25-22.5-14-1](#)

Affected: [IC 25-22.5-14](#)

Sec. 1. This rule establishes standards and procedures to implement a telehealth services pilot program utilizing telecommunications and information technology to provide access to health assessment, diagnosis, intervention, consultation, treatment, supervision, and information across a distance.

(Medical Licensing Board of Indiana; [844 IAC 5-8-1](#); filed Apr 8, 2015, 12:37 p.m.: [20150506-IR-844140442FRA](#))

[844 IAC 5-8-2](#) Definitions

Authority: [IC 25-22.5-2-7](#); [IC 25-22.5-14-1](#)

Affected: [IC 25-22.5-2-1](#); [IC 25-22.5-14](#)

Sec. 2. (a) The definitions in this section apply throughout this rule.

(b) "Board" refers to the medical licensing board of Indiana established by [IC 25-22.5-2-1](#).

(c) "Participant" means a physician who holds an active, unrestricted license to practice medicine in the state of Indiana. A participant may choose to organize under an entity or entities for authorized purposes.

(d) "Pilot program" means a pilot program established by the board to provide telehealth services to patients in Indiana without the requirement of an in-person, patient-physician relationship. The board may authorize more than one (1) participant to provide telehealth services under the pilot program.

(e) "Telehealth" means the practice of health care delivery, diagnosis, consultation, treatment, transfer of medical data, or exchange of medical education information by means of real-time video or secure chat or secure e-mail or integrated telephony while the patient is at any location and the health care provider is at any other location.

(f) "Telehealth services" means the use of telecommunications and information technology to provide access to health assessment, diagnosis, intervention, consultation, treatment, supervision, and information across a distance.

(g) "Valid prescription" refers to a prescription that is issued by a licensed physician for a legitimate

medical purpose in the usual course of professional practice and issued by the licensed physician who has first obtained a medical history and conducted an evaluation of the patient adequate to establish a diagnosis.

(h) "Visit" includes a single, independent encounter not to include follow-up visits by the same patient for that initial encounter. A visit by an established patient for a new encounter of treatment would be considered a new visit for purposes of the pilot.

(Medical Licensing Board of Indiana; [844 IAC 5-8-2](#); filed Apr 8, 2015, 12:37 p.m.: [20150506-IR-844140442FRA](#))

[844 IAC 5-8-3](#) Pilot program requirements

Authority: [IC 25-22.5-2-7](#); [IC 25-22.5-14-1](#)

Affected: [IC 16-18-2-168](#); [IC 25-22.5-14](#)

Sec. 3. The pilot program must include the following requirements:

- (1) All telehealth services must be provided by a physician licensed in good standing under [IC 25-22.5](#) who has an established physical practice in Indiana.
- (2) Each patient's medical record shall be considered a health record as defined at [IC 16-18-2-168](#) and be subject to all confidentiality requirements associated with a health record.
- (3) All technology must be secure and comply with the federal Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191, 110 Stat. 1938 (1996) and 45 CFR Parts 160 and 164).
- (4) Prescriptions may not be issued for a controlled substance or an abortifacient.
- (5) Services provided under the pilot program shall include primary, urgent, and nonemergent care and may not include emergency care.
- (6) The geographic area that will be served under the pilot program shall be limited to the state of Indiana.
- (7) Telehealth shall not include any encounter in which the patient is assured that any outcome, including the issuance of a prescription, will be issued as a quid pro quo for the payment of the provider's consultation fee or solely on the basis of an online questionnaire.
- (8) The pilot program shall consist of at least two (2) months of actively treating patients and must include:
 - (A) a minimum of two hundred (200) visits; or
 - (B) no less than one hundred (100) visits that include the issuance of a prescription.

(Medical Licensing Board of Indiana; [844 IAC 5-8-3](#); filed Apr 8, 2015, 12:37 p.m.: [20150506-IR-844140442FRA](#))

[844 IAC 5-8-4](#) Telehealth consultation requirements

Authority: [IC 25-22.5-2-7](#); [IC 25-22.5-14-1](#)

Affected: [IC 25-22.5-14](#)

Sec. 4. Telehealth consultations shall at least do the following:

- (1) Encourage the availability of patient medical information.
- (2) Include a documented patient evaluation including history and discussion adequate to establish a diagnosis and identify underlying conditions or contraindications to the treatment recommended.
- (3) Allow each patient upon conclusion of the encounter the ability to forward documentation to selected care providers to uphold patient's continuity of care.
- (4) Not be based exclusively on the basis of an online questionnaire.
- (5) Require participants to address what, if any, tools or peripherals are available to assist in the initial history and physician examination of the patient.

(Medical Licensing Board of Indiana; [844 IAC 5-8-4](#); filed Apr 8, 2015, 12:37 p.m.: [20150506-IR-844140442FRA](#))

[844 IAC 5-8-5](#) Pilot program evaluation; surveys

Authority: [IC 25-22.5-2-7](#); [IC 25-22.5-14-1](#)

Affected: [IC 25-22.5-14](#)

Sec. 5. (a) The participants shall establish a survey tool that, at a minimum, evaluates the:

- (1) satisfaction of participating patients and participating physicians; and
- (2) efficacy of a visit and determine whether additional follow-up was needed.

(b) At a minimum, these surveys shall be distributed to each participating:

- (1) patient no sooner than forty-eight (48) hours and no later than six (6) weeks following a visit; and
- (2) physician on a monthly basis.

(c) Complete survey results shall be made available to the board at the conclusion of the pilot program or as requested by the board.

(Medical Licensing Board of Indiana; [844 IAC 5-8-5](#); filed Apr 8, 2015, 12:37 p.m.: [20150506-IR-844140442FRA](#))

[844 IAC 5-8-6](#) Pilot program reporting

Authority: [IC 25-22.5-2-7](#); [IC 25-22.5-14-1](#)

Affected: [IC 5-14-6](#); [IC 25-22.5-14](#)

Sec. 6. Before the earlier of six (6) months after the completion of the pilot program, February 1, 2015, or an alternative deadline that may be established by the general assembly, the board shall report to the general assembly in an electronic format under [IC 5-14-6](#) concerning the outcomes of the pilot program, including the following:

- (1) The number of patients served.
- (2) The number of prescriptions issued.
- (3) The number of in-person follow-up visits required. This requirement shall be satisfied by written documentation in each patient's medical record indicating that follow-up care was recommended.
- (4) Overall physician and patient satisfaction.

(Medical Licensing Board of Indiana; [844 IAC 5-8-6](#); filed Apr 8, 2015, 12:37 p.m.: [20150506-IR-844140442FRA](#))

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Notice of Intent: [20141022-IR-844140442NIA](#)

Proposed Rule: [20141231-IR-844140442PRA](#)

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Documents Incorporated by Reference: Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191, 110 Stat.1938 (1996) and 45 CFR Parts 160 and 164)

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